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NARCOTIC

DRUG

STUDY

COMMISSION *of the*

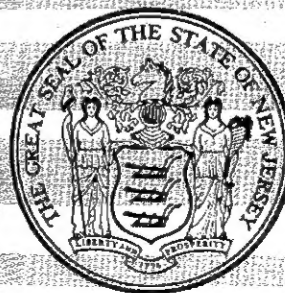
NEW JERSEY LEGISLATURE

INTERIM

REPORT

FOR

1963



*New Jersey Legislature, 1963-1964
Drug Study Commission*

AN INTERIM REPORT

of the

NARCOTIC DRUG STUDY COMMISSION

of the

NEW JERSEY LEGISLATURE

A study of the administration of narcotic control relating to the causes, prevention and control of drug addiction constituted pursuant to Senate Joint Resolution No. 16, Laws of 1963.

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AN APPRECIATION

The Narcotic Drug Study Commission of the New Jersey Legislature would like to express publicly its gratitude to all of the law enforcement officials, institution officials and their staffs for their full and complete cooperation. The Commission would like to specifically thank Lt. Leonard Iatesta and the members of the New Jersey State Police working under him in the field of narcotics law enforcement for their untiring efforts to meet the request of the Commission throughout its existence with dispatch. In a broad sense, the Study Commission would like it known publicly that during the first year of its existence it has found that those law enforcement officers dealing with narcotics in the State of New Jersey are the most dedicated of all public servants, exerting their every effort to remedy this almost insurmountable problem with its small force, to enforce the laws of the State against overwhelming odds and under the most difficult and trying circumstances.

The Commission would also like to express publicly its gratitude for the assistance given to the Commission by the Chief Justice of the New Jersey Supreme Court and the many County Superior Court Judges who at all times offered their assistance, especially those judges who preside in the more populated counties where narcotic addiction is most prevalent.

The Commission is exceedingly grateful for the untiring efforts and assistance rendered during the past year by The Honorable Lloyd W. McCorkle, New Jersey Commissioner of Institutions and Agencies. The performance of all of those who took part in this very difficult investigation and study has been in the highest order of State service and they are entitled to the gratitude of the people of New Jersey.

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FOREWORD

The activities of this Commission have been in a very sensitive and controversial area. Because of the serious nature of the subject matter of this study all hearings of necessity were private.

Immediately upon the formation of the Commission it was unanimously agreed by all members that this study would be conducted on a high level. At the very inception it was agreed that the Commission would make no press releases until it filed its preliminary report.

It is most gratifying to me as the Chairman of this Commission that every member of the Commission has unselfishly spent countless hours of time in a real endeavor to get to the core of this almost insurmountable problem.

Because of the very comprehensive study assigned to this Commission by the State Legislature, it was agreed that our first study would involve the administration of narcotic violators, starting with the first offense, the apprehension, the sentence, the incarceration, the treatment while incarcerated, the probation after incarceration and a review of cases of those narcotic users and addicts that were released after serving their sentence and parole.

In writing this report and arriving at the findings of fact and recommendations which are a part of it, the Commission has had the task of weighing the testimony and creditability of the various witnesses and coming to a conclusion based on that deliberation.

The findings of fact and recommendations are the result of our interpretation of the facts and the testimony as we found it. During this investigation the Commission interviewed more than 200 addicts, who represent a comprehensive cross section of New Jersey addicts covering both sexes, all age groups, all sections of the State, and from all

walks of life. The Commission has also sought testimony and advice from the officers and employees of the several State institutions, County jails and penitentiaries, and State hospitals.

The Commission also sought the testimony and advice of the Chief Justice of the New Jersey Supreme Court and the many Superior Court and County Court Judges in the heavily populated areas where drug addiction is most prevalent. We wish to point out that with the exception of Commissioner Lloyd W. McCorkle, the remaining members of the Commission are not experts in this field and we do not conclude that their findings as reported in this report are an indication of the problem of drug addiction in other parts of the Nation. We do not through our recommendations attempt to supply the full and complete answers to the problem; however, from our study we do submit our recommendations to the Governor and the New Jersey Legislature for their consideration as being methods by which the terrible problem of drug addiction can be better handled. Only time will tell as to whether or not these changes in the law in the handling of drug addicts will improve this situation. However, from the best information available to us as a result of a long and comprehensive study, we feel that these changes will be most beneficial.

We would also like to point out that this is by no means a final report. It is only the conclusion of one phase of our study. The Commission intends to spend most of 1964 studying the care of narcotics users and addicts from a medical standpoint, and also to study the best methods of prevention of the use and addiction of narcotic drugs.

The Commission would also like to point out that it is not in any sense of the word a law enforcement body and that it has at all times worked closely with all law enforcement agencies dealing with narcotics use and addictions. It should also be noted for the record that two of the original members of the Commission, namely Assemblyman George Richardson and Assemblyman Carmine Savino have

been succeeded by two new members of the Legislature since they are no longer members of the Assembly. The two new members are Assemblyman Kimmelman and Assemblyman Policastro. The date of their appointment was January 14, 1964.

Senator Charles W. Sandman, Jr.,
for the Commission.

with a large number of suppliers as a guarantee that if one source should "dry up" other alternative sources will be available. The problem of enforcement is to uncover these ties in order to trace top figures in the criminal organization.

A recent Supreme Court decision⁹⁷ involving search and seizures has made the problem of detection as well as conviction a grave problem in the narcotic field. Just recently this constitutional restriction on search and seizures was proclaimed by our State Supreme Court⁹⁸ which resulted in the dismissal of many pending indictments due to the suppression of evidence or probable contravening of warrants on which such arrests, searches and seizures were made.

The addict, constantly harassed by law enforcement officials, suffers under the constant fear of imminent detection and subsequent arrest and incarceration. Consequently they are law-conscious—conscious of the mandatory provisions of the law and the methods available to escape detection. In substance, they are knowledgeable both of police powers and police limitations. The recent search and seizure rule has been a boon to those engaged in the illegal sale and use of narcotic drugs. As one convicted seller told the committee,

"Since the latest search and seizure rulings, addicts no longer have to worry about getting caught with anything on them, since they don't have to worry about a cop stopping them on the street and searching them."⁹⁹

INSTITUTIONAL TREATMENT OF THE ADDICT

The facilities available for the treatment of the addict have been limited in the past to the institutions operated by the Federal Government in Lexington, Kentucky, and Fort

⁹⁷ *Mapp v. Ohio*, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961).

⁹⁸ *State v. Macri*, 72 N.J. Sup. 511, 178 A 2d 383, aff'd 39 N.J. 250 (1963).

⁹⁹ N.J. State Police, Narcotic Squad (1963).

Worth, Texas. The manner in which the addict may gain admission and subsequent discharge is regulated by Federal law.

The Surgeon General is empowered to provide for the treatment and discipline of any persons addicted to narcotic drugs who have been convicted of offenses against the United States and upon the discretion of the Surgeon General for the admission of any narcotic addict who voluntarily seeks admission and can probably be cured of his addiction. As a condition precedent to such voluntary admission every applicant must agree to submit to treatment for the maximum time found necessary to effect a cure. All voluntary admissions are subject to the availability of facilities after all eligible addicts convicted of offenses against the United States have first been admitted. Convicted addicts are eligible for parole and commutation of sentence, only upon certification by the Surgeon General that the individual is no longer an addict.⁹²

This report refers only to the services available for addicts at the Lexington Hospital in Kentucky since addicts seeking treatment who live west of the Mississippi are ineligible for the services available at Lexington. The record of treatment and discharge of the voluntary patient is confidential. Information obtained by the hospital as a result of treatment of the voluntarily admitted addict-patient cannot be used against him in any court proceeding, with the exception that fugitives may not claim the sanctuary of the hospital.

Most of the above conditions also attach to the voluntary treatment of the addict-patient in our State hospitals. Admission is by statute on a voluntary basis and applies only to residents of the State who desire treatment for the betterment of their mental condition. Admission procedures are relatively simple. Application is made to the Chief Executive officer of the institution which is then approved

⁹² 58 Stat. 698 et seq., 42 U.S.C.A. 257.

by its Board of Managers, or the Board of Chosen Freeholders.⁹³ Our law also provides for the involuntary (compulsory) admission of an individual for a temporary period of observation not to exceed seven days, who is found upon examination by a physician to be suffering from a mental or nervous illness or psychosis caused by drugs or alcohol rendering the patient incapable of making a voluntary application by his own initiative. No person may be involuntarily detained in excess of seven days unless by authority of a formal commitment pursuant to law.⁹⁴ Involuntary commitment applies only to persons in whom indicated types of pathology have effected an incapacity for the exercise of volition in seeking their own admission.⁹⁵

Resources available for the treatment of the narcotic addict in New Jersey are as follows:

General Hospitals in New Jersey will admit addicts when in the acute withdrawal stage and only for the duration of that stage.

Bergen Pines, Paramus, N. J. Does not have a separate unit to which narcotic addicts are admitted but does admit addicts to the Division of Psychiatry where they are treated either by medical means or by psychotherapy or both. The social service workers and rehabilitation worker try to follow these patients upon discharge and continue supervision of them. Addicts may be admitted upon referral by physicians, by the Courts, or by voluntary commitment. Admission is limited to residents of Bergen County. The duration of hospitalization varies but is usually short term with referral to Lexington of those patients requiring long term institutional care.

Essex County Overbrook Hospital, Cedar Grove, N. J. Accepts addicts from Essex County only when

⁹³ N.J.S.A. 30:4-46.

⁹⁴ N.J.S.A. 30:4-46.1.

⁹⁵ Ex parte J.W., 44 N.J. Super 216, 130 A.2d 64 (1957).

committed on certificate of two physicians and court order.

New Jersey State Hospital at Ancora, P. O. Hammon, N. J. Accepts narcotic addicts from the hospital receiving area only when committed on certificate of two physicians and court order.

New Jersey State Hospital, Greystone Park, N. J. Accepts narcotic addicts from the hospital receiving area only when committed on certificate of two physicians and court order.

New Jersey State Hospital, Marlboro, N. J. Extremely limited facilities for admission of voluntary patients from the hospital receiving area who are narcotic addicts in physical distress due to withdrawal, for short term physical care only.

New Jersey State Hospital, Trenton, N. J. Extremely limited facilities for admission of voluntary or committed patients from the hospital receiving area who are narcotic addicts in physical distress due to withdrawal, for short term physical care only.⁹⁶

There are other non-institutional, non-profit groups, such as Narcotics Anonymous, the Mt. Carmel Guild and the Salvation Army which provide tangential services to the addicted person.

Medical experts feel that our Federal hospitals for the drug addict have assumed a prison atmosphere directly influencing the physicians' and attendants' attitudes toward the addict-patient with the result that treatment, having a punitive approach, retards rehabilitation and the successful return of the addict to the community. That drug addiction is a disease requiring treatment is no longer a serious issue.⁹⁷ The principal deficiency in the treatment of the narcotic addict on both Federal and State levels on a

⁹⁶ N.J. Welfare Council, Comm. on Narcotic Addiction, Health Div. (1963).

⁹⁷ Ausubel, Medical Views on the Narcotics Problem 31 F.R.D. 58 (1963).

voluntary basis of admission is that the addict may leave the institution even against the advice of authority although he may have signed an agreement to stay as long as necessary. Most voluntary patients abandon the hospital long before treatment has any beneficial effect. This inherent vulnerable weakness of the voluntary program of admission ignores the very basic fact that the nature of addiction involves a lack of self-control or volition by the addict. Hence, he will often leave, knowing that reversion to the drug will stop painful withdrawal symptoms. When he has withdrawn from the drug so that he is no longer physically dependent upon it, his physical appearance improves, and he erroneously believes there is no reason to stay away from the drug. His outlook is premature . . . to society, dangerous. The essence of treatment is not the breaking of physical dependence, but psychiatric therapy resulting in personality rehabilitation.

The rate of relapse, or recidivism, of addict patients who were voluntarily admitted to Lexington has been so great that it is estimated less than two-tenths of one percent remain free from the use of drugs.⁹⁸ This committee has ascertained from voluminous testimony that a person, once addicted, is psychologically unable to refrain from using the drug even after he is no longer physically dependent on it. One addict reported that after serving 15 years in the State Prison, he refrained from smoking cigarettes during the last six months of his sentence in order to have enough money to buy a "fix" on the first day of his release. Other cases of recidivism have been noted previously in this report. It is abundantly clear that confinement, even over a long period, without psychiatric treatment, rehabilitating the addict's personality disorder achieves little in the way of social value. The only alternative answer suggested by many experts to meet the inherent basic weaknesses of the voluntary admission treatment program is a system of compulsory treatment for the narcotic addict.

⁹⁸ Prosser, W. The Narcotic Problem, 1 U.C.L.A. Law R-438.

Its opponents state the only satisfactory method of treating a sick individual with a view towards rehabilitation is a system which is based upon individual self-motivation to seek help and treatment. A compulsory treatment system would naturally eliminate the basic factor of self-motivation.

Sentences.

For many years there has been a great division of thought as to the severity of penalties that should be imposed upon the narcotic addict. One field of thought advocates strict and heavy penalties treating the narcotic user as a criminal; the primary objective being that mandatory penalties would stamp out the use of drugs or at least diminish its use. Another field of thought advocates that the narcotic user or addict not be treated as a criminal but that he be hospitalized and kept under close supervision and that the laws of the State be flexible to the extent that the sentencing judge be permitted a wide latitude concerning the imposition of sentence according to the facts presented.

A review of more than 200 cases by this commission reveals that the average user is usually sentenced to six months in the county jail for a first offense. In many cases he is sentenced to more than six months and in some cases sentenced less than six months. The average second offender receives a similar type sentence provided no other crime was involved.

Those narcotic users that were convicted of possession of narcotic drugs in most cases were sentenced to State Prison.

New Jersey as well as the Federal Government employs a philosophy of penal correctional measures toward the offender. In New Jersey, those convicted under the Uniform Narcotic Statutes are subject to the following mandatory minimum sentences which were enacted by the Legislature upon the recommendations of the Legislative Study Com-